vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.971 OF 2005
IN
SUIT NO.952 OF 2005

Anthony Britto ... Plaintiff

V/s.

Rau Shankar Mogariya & Anr. ... Defendants

Mr.V.R. Tripathi for Plaintiff
None for Defendants

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 12, 2006**

P.C.:

. The Plaintiff contends that the Defendants and he entered into an agreement of sale for the suit premises being Flat No.101, 1st floor, Shree Ganasidivinayak Cooperative Housing Society Ltd., Opp.Bhatia building, Mahim (West), Mumbai-16. This agreement was executed on 28.1.2002. The total consideration in respect of the suit flat was Rs.8,50,000/-. An amount of Rs.100,000/- was paid as earnest money which has been acknowledged by the defendant on 24.1.2002. The plaintiff paid a further amount of Rs.3 lacs which has also been acknowledged by the defendants.

2. When the Motion was filed, the plaintiff directed to deposit the balance consideration in this Court i.e., Rs.450,000/-, which the plaintiff has

deposited. The plaintiff now seeks appointment of Court Receiver in respect of the suit flat and that he be appointed as an agent of the Court Receiver.

3. The defendants are absent, though served.

4. In my view, the plaintiff has prima facie indicated that the suit flat was to be sold for a total consideration of Rs.8,50,000/-. The Plaintiff has already established that he has paid the amount of Rs.4,00,000/- and the balance amount of Rs.4,50,000/- has been deposited in this Court and invested in a nationalised bank. In the circumstances, therefore, it would be appropriate to allow the Motion.

5. Motion is accordingly allowed in terms of prayer clauses (a) and (b). The Plaintiff is accordingly appointed as an agent of the Court Receiver by entering into an agency agreement on the usual terms and conditions without royalty and security.